UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/WG.13/2/Add.2
30 January 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Inter-sessional open-ended Working Group
on a draft optional protocol to the
Convention on the Rights of the
Child on involvement of children
in armed conflicts
Fourth session
Geneva, 2-13 February 1998

COMMENTS ON THE REPORT OF THE WORKING GROUP

Report of the Secretary-General

Addendum

The present document contains a summary of the comments submitted by the Government of Australia.

[Original: English]
[26 January 1998]

1. The Australian Government has always been a strong supporter of the development of an optional protocol to the Convention on the Rights of the Child on the protection of children in armed conflict, and has participated actively in the working group negotiating the text of the protocol. In light of the disturbing indications of widespread involvement of children in conflicts currently taking place around the world, the Australian Government considers it a priority to support efforts, including the development of this protocol, aimed at improving the international legal protection available to children in the context of armed conflict. In this context Australia was very disappointed that the working group was unable to conclude the drafting of the protocol at its third session, held in Geneva in January 1997. With only a few issues remaining to be resolved, it is the Australian Government's view that States involved in the negotiations should make every effort to complete the drafting of the protocol at the next session of the working group.

2. The Australian Government welcomed the considerable efforts of the Chair at the third session of the working group to achieve progress in the negotiations. His initiative in preparing a Chair's "perception text" was very useful given the working group's inability to reach agreement on a number of important elements in the text.

3. While much of the Chair's text was likely to be broadly acceptable, further work still needs to be done on issues such as the age of conscription, on a reservations article, and on ensuring that any exception for military schools is narrowly construed and consistent with the minimum age for voluntary recruitment ultimately adopted in the protocol. The Australian Government would encourage the Chair to work with interested Governments in the lead up to the next session of the working group to develop consensus on these and the other remaining issues.

4. In relation to specific elements of the draft annexed to the report of the working group at its third session (E/CN.4/1997/96), the Australian Government would make the following comments. In article 1, Australia supports the age of 18 for participation in hostilities, and considers that at the last session of the working group it was apparent that there was overwhelming support for 18 years. Australia would also prefer that the prohibition on participation in hostilities take the widest possible form, by deletion of the word "direct", so as to encompass the possibility that children who do not take a direct role but who are nonetheless inevitably caught up in conflict are protected by the protocol.

5. In relation to article 2, the Australian Government strongly supports the age of 18 for conscription, which appears in the current text, and considers that this should not be altered. In relation to voluntary recruitment, the Australian Government continues to support a minimum age of 17 years. On the possibility of an exception for military schools, Australia considers it essential that it be narrowly construed and consistent with the minimum age for voluntary recruitment.

6. On other issues, the Australian Government supports retention in the protocol of a reference to recruitment of children by non-governmental groups. The Australian Government also retains its preference for an article which provides that no reservations to the protocol are permissible, given that the protocol is itself optional.